

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
ITEM # 40 ID # 2371
RESOLUTION E-3835
October 2, 2003

R E S O L U T I O N

Resolution E-3835. Southern California Edison (SCE) requests Commission approval of revisions to tariff schedules necessary to extend the TOU pricing requirement mandated by AB1X 29 and D.01-05-064 to all customers with demand exceeding 200 kW.

By Advice Letter (AL) 1649-E filed on September 6, 2002.

SUMMARY

This Resolution approves SCE's request to revise its tariffs with some modifications. This resolution agrees with SCE that customers who exceed 200 kW in demand should be required to be on a Time-of-Use (TOU) rate schedule. This resolution further clarifies that such customers must also have a TOU meter as a condition to being on TOU rates. This resolution also determines that customers in excess of 200 kW in demand who have interval meters, may also have the option to participate in demand response programs or tariffs as developed in R.02-06-001.

The protests by Grueneich and EMS are denied.

BACKGROUND

On September 6, 2002, SCE filed AL 1649-E for the purpose of requiring that all customers with peak demands exceeding 200 kW should have a real-time or interval meter installed and be required to take service on a TOU rate schedule.

In April 2001, Governor Gray Davis signed into law AB1X 29 (Statutes of 2001) one of three urgency bills enacted by the Governor to respond the state's energy crisis. AB1X 29 allocated \$35 million from the state General Fund for the California Energy Commission (CEC) to provide either time-of-use (TOU) or real-time interval meters to customers with demands greater than 200 kW.

As part of the Commission's effort to address real-time pricing issues, D.01-08-021 found that the receipt of TOU or RTP meters for customers with electric loads over 200 kW of peak demand is mandatory under AB1X 29. It further found that the CEC has chosen to use the \$35 million allocated by the Legislature under AB1X 29 to install RTP metering systems for customers. D.01-09-062 found that customers receiving RTP meters under AB1X 29 who are not on a TOU schedule should be placed on a TOU schedule.

In AL 1649-E, SCE states that its tariffs currently require only those customers who have received an AB1X 29-funded meter to take service on a TOU rate schedule. The tariffs do not require customers who receive a ratepayer-funded interval meter to take service on a TOU rate schedule. SCE further states that to ensure equity among SCE's customers and consistency with the intent of AB1X 29 and D.01-08-021, SCE proposes to revise its tariffs by removing references to state-funded meters and clarify that all customers with peak demands exceeding 200 kW should have a real-time or other type of interval meter installed and be required to take service on a TOU rate schedule.

NOTICE

Notice of AL 1649-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the AL was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

Grueneich Resource Advocates (Grueneich) and Energy Management Systems (EMS) timely protested AL 1649-E on September 26, 2002. Grueneich protested on behalf of the University of California, California State University and the Irvine Company.

SCE responded to both protests on October 3, 2002.

The following is a more detailed summary of the major issues raised in the protests.

DISCUSSION

Grueneich's Protest

Grueneich argues that SCE's proposal in AL 1649-E goes beyond the scope of AB1X 29 and the pertinent Commission decisions. Grueneich interprets SCE's proposal as an expansion of the interval meter and TOU rate schedule requirement to all customers with peak demands over 200 kW, even if the customer did not receive its meter through AB1X 29. Grueneich claims that the Legislature, the Commission or the CEC has never formally considered such an expansion. Grueneich further argues that if the Commission wishes to adopt new rates and rules for all customers with peak demand over 200 kW, it cannot do so through an advice letter filing, but must open a formal proceeding where it can consider all of the issues and hear from all affected parties.

In response to Grueneich's protest, SCE cites AL 1577-E (approved by Energy Division on October 22, 2001) which was filed to comply with AB1X 29 and D.01-09-062. AL 1577-E modified SCE's tariffs by specifying that customers receiving State-funded meters shall be served under a TOU rate schedule. SCE notes that had funding provided by AB1X 29 been sufficient to cover the cost of interval meters for all eligible customers, modifications to its tariff as provided in AL 1577-E would not have been necessary as all eligible customers would have been required by law to have an interval meter and be on a TOU rate schedule.

SCE interprets Grueneich's protest to assert that customers somehow understood that only a subset of eligible customers would ultimately be required to have TOU metering, presumably before the AB1X 29 funding ran out. SCE asserts it is impossible for anyone to know which customers would ultimately receive a AB1X 29 funded meter, and thus all customers over 200 kW in demand would have to consider the implications of being on a TOU rate schedule.

The dispute here is whether the customer should or should not be required to participate in a TOU rate schedule depending on the funding source of the installed interval meter. Grueneich argues that customers with meters not funded by AB1X 29 were not intended by Legislature or the Commission to be placed on TOU rate schedules.

There is no dispute that for customers in receipt of meters funded through AB1X 29, participation in a TOU rate schedule is mandatory as currently specified in SCE's tariffs. SCE notes in AL 1649-E, that customers who receive meters that

are funded through its RTEM Memorandum Account are currently not required by SCE's tariffs to participate on a TOU rate schedule.

As a matter of background, through AL 1549-E-A (approved by the Commission through Resolution E-3746), SCE established the RTEM Memorandum Account for the purpose of recovering costs that are in excess of funds provided by the CEC through AB1X 29. Specifically, SCE anticipated receiving up to \$19 million from the CEC (through AB1X 29 and SBX1 5 appropriations) to install interval meters and related infrastructure for 12,000 customers with demand of 200 kW or greater. However SCE also estimated that an additional \$20 million would be needed to install and operate the metering and communication infrastructure necessary to make the metering system operational. SCE would seek recovery of the incremental costs at a later date, presumably through its next General Rate Case.

We agree with SCE's interpretation of AB1X 29 and our past decisions on this subject. It was our intent that customers with demand over 200 kW, should be on TOU rates as long as they have an appropriate meter (an interval meter, or at the least, a TOU meter). SCE's similarly situated customers should be treated as consistently as possible, and creating exemptions to the mandatory TOU rates based on the funding source of the customer's interval meter is inconsistent with the intention of providing demand response for system benefits. However, we now add an additional caveat. At the time of D.01-09-062, there were no demand response programs or tariffs other than the interruptible or emergency based programs adopted in R.00-10-002. Mandatory participation in TOU rate schedules was, at the time, the best possible use of the meters.

Today we have new demand response programs and tariffs for customers with demand exceeding 200 kW recently adopted via D.03-06-032. These tariffs and programs are specifically meant for customers who have the interval meters. Interval meters are actually better suited for demand response programs and tariffs (as opposed to TOU), and to limit participation to just TOU rate schedules would be limiting the full potential of the installed meters. Because these programs and tariffs are currently voluntary, we find that customers who exceed 200 kW in demand should be required to participate TOU rate schedule, but may also have the option to sign up for the new demand response tariffs or programs adopted in R.02-06-001, assuming those customers are otherwise eligible. We reject Greuneich's protest.

EMS' Protest

EMS argues that SCE's proposal requires all customers with demand above 200 kW to switch to a TOU rate option, regardless of the funding source of their interval meter. EMS points out that the Commission made TOU service mandatory for those customers receiving AB1X 29-funded meters to maximize the return of the State's investment. EMS argues that the same reasoning cannot be applied to customers who have purchased interval meters on their own, and thus such customers should not be required to be on a TOU rate option. EMS also cites the Commission's rulemaking on demand response (R.02-01-006) as in the process of developing new demand response options for customers. In light of the rulemaking, EMS argues that customers, who are required to switch to a TOU option, should also have the alternative of participating in the emerging demand response programs and tariffs.

In response to EMS' protest, SCE argues that the return on investment sought by the State is not financial, but rather the system benefits resulting from a large group of customers reacting to TOU prices. Regarding EMS' argument that customers should have the option of participating in emerging demand response programs or tariffs, SCE recommends that such programs and tariffs be put into place before that option is considered.

As noted earlier, we clarify that our intent regarding this issue was to achieve system benefits by having large customers move to TOU rates. We are not persuaded by EMS that customers who have self-funded their interval meters should be allowed an exemption from TOU participation. Allowing that exemption creates an incentive for future customers to purchase their own meters as a way to avoid the demand response we seek. Thus customers with demands greater than 200 kW who purchase interval meters on their own should also be required to participate on a TOU rate schedule. EMS' protest is rejected.

As noted earlier, in D.03-06-032 we adopted a set of new demand response programs and tariffs for customers with demand of 200 kW or greater. We agree with EMS' suggestion to the extent that the newly adopted demand response programs and tariffs should be additional option for customers over 200 kW in demand and with interval meters, assuming those customers are otherwise eligible. R.02-06-001 (Phase 2) may be developing additional tariffs and programs at a future date that may also be applicable for the interval meters, and thus these programs should also be additional options for customers to consider.

SCE's Proposed Tariff Modifications

The proposed tariff modifications in SCE's AL 1649-E should be amended and re-filed as a supplement to the original advice letter. The specific changes should be made as detailed below:

For Schedules GS-2, PA-1, and PA-2, SCE proposes to eliminate the 'state-funded meter' reference. SCE may eliminate that reference but should also include language that specifies that the customer must have, at a minimum, a TOU meter as a condition to being moved to a TOU rate schedule. Also for Schedule GS-2, language should also be included that provide the customer the option to sign up for demand response programs or tariffs adopted through R.02-06-001 as an alternative to TOU rate schedules. We decline to adopt similar language for Schedules PA-1 and PA-2, as D.03-06-036 has directed SCE to identify agricultural schedules that are eligible to participate in the newly adopted demand response programs and tariffs.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

Comments were filed by SCE on June 27, 2003. No party filed reply comments.

SCE asserts that the true intent of AB1X 29 and Commission decisions D.01-08-021 and D.01-09-062 was to get large customers onto TOU rates to achieve system benefits through demand response. The draft resolution wrongfully assumes that the purpose of the legislation and the Commission was to install interval meters and then justify the costs of meters by putting customers on a TOU rate. SCE also asserts that the resolution creates a detrimental 'loophole' by allowing customers to purchase their own meters as a way of avoiding the TOU rate requirement. SCE recommends that the resolution be modified to reflect that

mandatory TOU participation be tied to the level of the customer's demand, rather than possession of an interval meter or the funding source of the meter.

We are persuaded by SCE comments. We agree that SCE's similarly situated customers be treated as consistently as possible, rather than create exemptions based on the funding source of the customer's interval meter. We agree that customers who have self-funded meters are also subject to mandatory TOU rates, just as customers with state-funded or ratepayer-funded interval meters are.

SCE also recommends that the TOU participation be tied exclusively to the customer's level of demand, irrespective of their possession of an interval meter. It is not clear if SCE is drawing a distinction between interval meters and TOU meters in terms of mandatory TOU participation. We agree that an interval meter is not necessary to participate in TOU rates, but the customer must have a TOU meter to do so. We thus clarify that mandatory TOU may be tied to the customer's level of demand as SCE suggests, but only if the customer has an appropriate meter (interval, or at a minimum, TOU), otherwise the customer would be unable to respond appropriately to the time-differentiated rates.

FINDINGS

1. AB1X 29 allocated \$35 million from the state General Fund for the California Energy Commission (CEC) to provide either time-of-use (TOU) or real-time interval meters to customers with demands greater than 200 kW as a means to the end of requiring customers with demands greater than 200 kW to take service on a time-differentiated rate schedule.
2. D.01-08-021 found that the receipt of TOU or RTP meters for customers with electric loads over 200 kW of peak demand is mandatory under AB1X 29.
3. D.01-08-021 also found that the CEC has chosen to use the \$35 million allocated by the Legislature under AB1X 29 to install RTP metering systems for customers.
4. D.01-09-062 found that customers receiving RTP meters under AB1X 29 who are not on a TOU schedule should be placed on a TOU schedule.

5. SCE filed AL 1649-E for the purpose of requiring that all customers with peak demands exceeding 200 kW should have a real-time or interval meter installed and be required to take service on a TOU rate schedule.
6. SCE states that its tariffs currently require only those customers who have received an AB1X 29-funded meter to take service on a TOU rate schedule. The tariffs do not require customers who receive a ratepayer-funded interval meter to take service on a TOU rate schedule
7. Grueneich Resource Advocates (Grueneich) and Energy Management Systems (EMS) timely protested AL 1649-E on September 26, 2002. Grueneich protested on behalf of the University of California, California State University and the Irvine Company.
8. In AL 1549-E-A (approved by the Commission through Resolution E-3746), SCE established a RTEM Memorandum Account for the purpose of recovering costs that are in excess of funds provided by the CEC through AB1X 29.
9. In order for California to realize system benefits, all customers with demand greater than 200 kW should be placed on a TOU schedule, but must have an appropriate meter (interval, or at a minimum, TOU).
10. D.03-06-032 adopts a set of new demand response programs and tariffs for customers with demand of 200 kW or greater.
11. Interval meters are actually better suited for demand response programs and tariffs (as opposed to TOU), and to limit participation to just TOU rate schedules would be limiting the full potential of the installed meters.
12. Customers who exceed 200 kW in demand and have an interval meter should be required to participate TOU rate schedule, but may also have the option to sign up for the new demand response tariffs or programs adopted in R.02-06-001.
13. Greuneich's protest should be rejected.
14. Customers with demands greater than 200 kW who purchase interval meters on their own should also be required to participate on a TOU rate schedule.

15. EMS' protest should be rejected.

THEREFORE IT IS ORDERED THAT:

1. The request by SCE to modify its tariffs as requested in AL 1649-E is approved to the extent described in this Resolution.
2. SCE shall file a supplemental advice letter that incorporates the modifications described in this Resolution.
3. The protest filed by EMS is denied.
4. The protest filed by Greuneich is denied.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on October 2, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director